

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

Howard O. Kieffer,

Case No. 14-cv-3192 (WMW/LIB)

Plaintiff,

v.

**ORDER ADOPTING REPORT AND
RECOMMENDATION AND
DISMISSING CLAIMS AGAINST DOE
DEFENDANTS**

Tundra Storage LLC; Darryl Jorgenson;
Tim Jorgenson; Tim Jorgenson Ent.;
Richard K. Hocking; Rels Title; Teresa
Warren; J.S. Realty, Inc.; Julie Sathers; E/Z
Storage Co.; Ken Page; Leanne Dedrick;
Susan Ginsburg; Does 1 to 10, inclusive;
and Darryl Jorgenson Realty, LLC,

Defendants.

This matter is before the Court on the February 22, 2017 Report and Recommendation (R&R) of United States Magistrate Judge Leo I. Brisbois. (Dkt. 222.) No objections to the R&R were filed. In the absence of timely objections, the Court reviews an R&R for clear error. *See* Fed. R. Civ. P. 72(b) advisory committee's note ("When no timely objection is filed, the court need only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation."); *Grinder v. Gammon*, 73 F.3d 793, 795 (8th Cir. 1996). Having reviewed the R&R, the Court finds no clear error and adopts the R&R.

Because the Court adopts the R&R and grants the pending motions for summary judgment, the only remaining claims in this case are against unidentified "Does 1 to 10, inclusive." Plaintiff's amended complaint states that Does 1 to 10 are "individuals or business entities of unknown organization and legal status whose identities are presently

unknown.” Plaintiff makes no factual allegations as to Does 1 to 10 independent of his allegations pertaining to other defendants that have already been or are now dismissed. For these reasons, dismissal without prejudice of Plaintiff’s complaint as to Does 1 to 10 is warranted. *See, e.g., Estate of Rosenberg ex rel. Rosenberg v. Crandell*, 56 F.3d 35, 37 (8th Cir. 1995) (affirming dismissal without prejudice of unidentified defendants about whom no factual allegations were made); *Gold Star Taxi & Transp. Serv. v. Mall of Am. Co.*, 987 F. Supp. 741, 753 (D. Minn. 1997) (dismissing sua sponte claims against ten “John Doe Defendants” when “[e]ven after the completion of discovery, Plaintiffs have not ascertained the identity of or established any facts regarding these unnamed Defendants”).

ORDER

Based on the foregoing analysis, the R&R and all the files, records and proceedings herein, **IT IS HEREBY ORDERED:**

1. The February 22, 2017 Report and Recommendation, (Dkt. 222), is **ADOPTED**;
2. Defendant Susan Ginsburg’s motion for summary judgment, (Dkt. 181), is **GRANTED**;
3. Defendant Leanne Dedrick’s motion for summary judgment, (Dkt. 188), is **GRANTED**;
4. The joint motion for summary judgment filed by Defendants J.S. Realty, Inc. and Julie Sathers, (Dkt. 193), is **GRANTED**;

5. The joint motion for summary judgment filed by Defendants Rels Title, Inc. and Teresa Warren, (Dkt. 200), is **GRANTED**; and

6. Plaintiff's claims against Does 1 to 10, inclusive, are **DISMISSED WITHOUT PREJUDICE** for failure to state a claim on which relief can be granted.

LET JUDGMENT BE ENTERED ACCORDINGLY.

Dated: March 29, 2017

s/Wilhelmina M. Wright
Wilhelmina M. Wright
United States District Judge